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FM AMEMBASSY BUCHAREST
TO RUEHC/SECSTATE WASHDC PRIORITY 6661
INFO RUEHZL/EUROPEAN POLITICAL COLLECTIVE
RUEAWJA/DEPT OF JUSTICE WASHDC

C O N F I D E N T I A L SECTION 01 OF 03 BUCHAREST 000574

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E.O. 12958: DECL: 05/18/2017
TAGS: [PREL](#) [PGOV](#) [KJUS](#) [KCOR](#) [RO](#)
SUBJECT: FALSE START: JUSTICE MINISTER ATTEMPTS TO DISMISS
SENIOR ANTICORRUPTION PROSECUTOR BLOCKED FOR NOW

REF: A) BUCHAREST 556 B) BUCHAREST 491 C) BUCHAREST 469

Classified By: DCM Mark Taplin for reasons 1.4(b) and (d).

¶1. (C) Summary: A heavy-handed attempt by Justice Minister Chiuariu to remove Romania's top anti-corruption prosecutor has been blocked for now by the Superior Council of Magistracy (CSM). The CSM decision effectively prevents the anti-Basescu coalition from gaining control over anticorruption prosecutions during the President's one-month suspension period. Chiuariu's move clearly backfired, eliciting protests and high-level resignations from senior judicial officials, and prompting calls for Chiuariu's own resignation. It has also prompted EU observers to pointedly attend en masse the CSM hearing in a rare public gesture of concern about the direction of judicial reform in Romania. In turn, the Tariceanu government and Geoana's Social Democrat Party have bristled at the negative foreign attention on their moves to roll back Romania's anti-corruption efforts. End summary.

¶2. (C) One of incoming Justice Minister Tudor Chiuariu's first priorities has been an attempt to dismiss the National Anticorruption Directorate's (DNA) Deputy Chief Doru Tulus. This has provoked an uproar, including widespread complaints of interference with the independence of prosecutors and public calls for Chiuariu's resignation. Chiuariu reportedly sent his surprise request for the dismissal of Tulus to Interim President Nicolae Vacaroiu, without consulting DNA Chief Prosecutor Dan Morar, Prosecutor General Codruta Kovesi, or even his own Justice Ministry staffers responsible for anticorruption efforts and relations with the prosecutors. Civil society NGOs, intellectuals, as well as magistrates protested Chiuariu's interference with the judiciary. The National Institute of Magistracy revoked an invitation for Chiuariu to speak the next evening, issuing a statement that the "minister's message could contradict the values promoted by the Institute." Three Ministry of Justice officials also tendered their resignations in protest: State Secretary Ionut Codescu, the minister's legal counselor

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Cristi Danilet, and the director for anticorruption efforts
Laura Stefan.

¶3. (C) During a May 8 meeting with visiting EUR A/S Dan Fried and Ambassador, Prime Minister Tariceanu denied any knowledge of the dismissal, which had been revealed by the media a few hours earlier. However, the MOJ State Secretary who resigned--Ionut Codescu--subsequently asserted to PolOff and RLA that the Justice Minister would have done nothing without the Prime Minister's explicit authorization. Codescu mocked the crude way in which the bureaucratically inexperienced Chiuariu attempted to carry out the dismissal, noting that he failed to consult with senior staff who had

previously prepared such dismissals; Chiuariu had clearly failed to anticipate the unprecedented uproar that his heavy-handed attempt to threaten the magistrates would provoke. Codescu, who has been in the MOJ since 1998 (and State Secretary since September 2005) said the prosecutors' protest was also a tribute to former Justice Minister Monica Macovei's effectiveness in establishing a truly independent judiciary, as such a protest would have been unthinkable just a few years ago. The Ambassador's press statement following his May 14 meeting with DNA Chief Morar, helped focus the attention of other embassies, as well as the media, to these "recent developments that had raised questions...about the current direction of Romania's anti-corruption efforts."

¶4. (C) The targeted prosecutor, Doru Tulus, who is the DNA Chief of Section II for Combating Corruption, told PolOff and RLA May 14 that he believed the reason for the rushed request for his dismissal was because of the many high-level corruption investigations currently under his purview. He estimated that 80-90 percent of his section's most important cases involved senior public officials currently in power. Tulus explained that demoting him from this position would effectively remove him from the DNA since he was promoted from the prosecutor's office in Cluj and would have to return there -- a fact, he claimed, the Justice Minister knew well. He noted that the move against him came only one day after an unnamed leader of a political party was interrogated at DNA. Tulus added, however, that he believed the attack was not the result of a single case, but of several, and added "What they've done to me is just the first step" and a "clear message to other prosecutors to mind your own business or wind up the same."

¶5. (C) The embattled Tulus said he believed that the individuals behind the Justice Minister's decision were trying to get rid of others as well, including DNA Chief

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Daniel Morar. He said that just by targeting his position, they could block much of the anti-corruption agency's activities, as the section chief reviews all information relevant to new cases, decides whether to open investigations, delegates cases to prosecutors, and decides whether a case can be sent to court. Tulus also noted that part of the Justice Minister's allegations against him was that he had failed to adequately prosecute three high profile cases -- despite the fact that these cases dated from 2002-2004, while he began working at the DNA only in 2005.

¶6. (C) Tulus also underscored the impact of parliament's recent decriminalization of certain types of bank fraud, noting that "one of the most important problems" in post-communist Romania had been the collapse of the banking system. The failures of Bancorex (then the largest Romanian bank), the Romanian-Turkish Bank, the International Bank of Religions, the Romanian Development Bank, and the Agricultural Bank were the result of oligarchs' obtaining huge sums of money through loans that were then redirected for other purposes. A law had been passed in 2000 that criminalized this behavior, and the strict penalties -- 5-15 years in prison -- were "enough to make people afraid," according to Tulus. Geoana's PSD led the effort in parliament to decriminalize this kind of bank fraud -- an effort that succeeded with the passage of new legislation in March 2007 that left it to the banks to sanction bank employees for facilitating such fraud. Tulus said this change made it harder for investigators to request bank records and to get the documents needed to open preliminary investigations.

¶7. (C) The CGghQ;HQen, the European Commission Delegation; an Embassy poloff also attended. Justice Minister Chiurariu frowned throughout the hearing and appeared to be there more in the role of a note taker than the proponent of the motion. He was visibly upset by the presence both of many reporters and diplomatic observers. The Superior Council of Magistracy

(CSM) subsequently dealt a major blow to the dismissal request by voting to delay any removal of Tulus until it had conducted its own inspection of DNA, beginning June 1, effectively delay any decision until after the May 19 presidential referendum.

18. (C) Despite the CSM's position, DNA Chief Morar complained that such a special review of DNA activity was unwarranted since it already was subjected to periodic reviews and was undergoing one currently. Laura Stefan, the MOJ Anticorruption Director who resigned in protest after the suspension effort was revealed, told PolOff that performing such an inspection would slow down the DNA during the next two months and give people outside DNA unprecedented access to current case files and a look into the DNA's sources, methods, technical abilities and operational secrets. She believed "deals are being done" as many high-level officials are willing to pay "high prices" for such knowledge.

19. (C) Comment: The intense scrutiny that Justice Minister Chiuriaru's abortive move to tamper with the anti-corruption prosecutors elicited from the diplomatic community clearly played a role in thwarting a fairly transparent attempt to play havoc with the anti-corruption prosecutors during Basescu's suspension. That this has incurred the resentment of PM Tariceanu and others is no secret. Tariceanu in recent press comments complained that "the attitudes of certain diplomats in Bucharest oversteps the normal scope of diplomatic work," adding that Romania as an EU state needs to be treated as a "partner and equal." He also reportedly claimed the Ambassador had made a "groundless" assertion when he said recent events had raised questions regarding the GOR's anticorruption fight. Similarly, PSD spokesman Cristian Diaconescu complained that the presence of diplomats from the U.S. and EU in observing the CSM hearing was an "unprecedented disgrace" and a sign that Romania was being treated as a country with "limited sovereignty" akin to Kosovo. To its credit, the European Commission has not retreated, underscoring that the EU and member states had been assisting the CSM, the DNA, and other justice institutions for some years and noted the benchmark on anticorruption efforts that Romania must fulfill. When Justice Minister Christian David raised the same types of objections during a May 18 meeting with the Ambassador, we noted that the CSM hearing had been open to the public, and that the Embassy was fulfilling its legitimate diplomatic role. End Comment.

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